

**AUG 07 2003**

**NOT FOR PUBLICATION**

UNITED STATES COURT OF APPEALS

CATHY A. CATTERSON

U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

OREGON ADVOCACY CENTER;  
MICHAEL MCCORMACK,

Plaintiffs - Appellees,

v.

STANLEY MAZUR-HART,  
Superintendent of the Oregon State  
Hospital and his successors in office,

Defendant - Appellant.

No. 02-35469

D.C. No. CV-01-01364-OMP

MEMORANDUM\*

Appeal from the United States District Court  
for the District of Oregon  
Owen M. Panner, Senior Judge, Presiding

Argued and Submitted July 8, 2003  
Portland, Oregon

Before: SCHROEDER, Chief Judge, HUG, and BERZON, Circuit Judges.

Oregon Advocacy Center has standing to bring this claim. Oregon

Advocacy Ctr. v. Mink, 322 F.3d 1101, 1113 (9th Cir. 2003). The Superintendent

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\* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

has not carried his burden of proving collateral estoppel. Kamilche Co. v. United States, 53 F.3d 1059, 1062 (9th Cir. 1995). OAC was not a party to the prior lawsuit, did not control the earlier litigation, and the legal assistance claim to disabled persons was not raised in the earlier suit. Nordhorn v. Ladish Co., 9 F.3d 1402, 1405 (9th Cir. 1993). Michael McCormack joined this action because Superintendent discontinued providing him access to federal appellate opinions.

McCormack's claim is not moot because voluntary cessation does not moot a claim. Friends of the Earth v. Laidlaw, 528 U.S. 167, 189 (2000). The injury is also capable of repetition. Biodiversity Legal Found. v. Badgley, 309 F.3d 1166, 1173 (9th Cir. 2002).

The district court did not err in finding a constitutional violation over access to the courts. Lewis v. Casey, 518 U.S. 343, 356 (1996). The relief ordered is necessary to correct ongoing violations of the right of access to the courts.

Finally, attorney's fees are properly awarded to OAC because plaintiffs prevailed on the merits. Barrios v. Cal. Interscholastic Fed'n, 277 F.3d 1128, 1134 (9th Cir. 2002).

AFFIRMED.